IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

INCOME TAX REFERENCE No.109 of 1995

For Approval and Signature:
HONOURABLE MR.JUSTICE D.A.MEHTA Sd/-

HONOURABLE MS.JUSTICE H.N.DEVANI Sd/-

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1	Whether Reporters of Local Papers may be allowed to see the judgment ?
2	To be referred to the Reporter or not ?
3	Whether their Lordships wish to see the fair copy of the judgment ?
4	Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?
5	Whether it is to be circulated to the civil judge ?

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COMMISSIONER OF INCOME-TAX - Applicant(s)
Versus
CADILA CHEMICALS PVT LTD - Respondent(s)

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Appearance :
MR BB NAIK for Applicant(s) : 1,
MR BD KARIA with MR RK PATEL for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE D.A.MEHTA
and
HONOURABLE MS.JUSTICE H.N.DEVANI
Date : 15/02/2006
ORAL JUDGMENT
(Per : HONOURABLE MS.JUSTICE H.N.DEVANI)

1. The Income Tax Appellate Tribunal, Ahmedabad Bench 'A', has referred the following question under Section 256(2) of the Income-tax Act, 1961 (the Act) at the instance of the Commissioner of Income-tax :

"Whether, on the facts and in the circumstances of the case, the question regarding computation of capital employed for granting relief under Section 80J of the Income-tax Act, 1961 was rightly decided by the Income-tax Appellate Tribunal ?"

2. The Assessment Year is 1981-82.

3. Heard Mr.B.B. Naik, learned Standing Counsel on behalf of the applicant. When the matter was called out, Mr.B.D. Karia, learned advocate with Mr.R.K. Patel, submitted that he is appearing on behalf of the respondent and that he would be filing his appearance within a short time.

4. The learned counsel for the parties have drawn attention to the order of the Tribunal dated 7th January, 1988 to point out that the Tribunal had followed its earlier decision in assessee's own case for Assessment Year 1982-83. That the revenue had carried the matter before this Court by way of Income Tax Reference No.289 of 1993 which had been decided by a judgment and order dated 11th July, 2005 in case of Commissioner of Income-tax Vs. Cadila Chemicals P. Ltd.[2005] 278 ITR 633 (Guj.) and the question had been answered in favour of the assessee.

5. In the facts and circumstances, it is not necessary to set out the facts and contentions in details. For the reasons stated in the case of Commissioner of Income-tax Vs. Cadila Chemicals P. Ltd. (supra), the question referred is answered in the affirmative i.e. in favour of the assessee and against the revenue.

6. The reference stands disposed of. There shall be no order as to costs.

Sd/-
[D.A. MEHTA, J]

Sd/-
[H.N. DEVANI, J]

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*Bhavesh**